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BEFORE THE

Federal Communications Commission

In re Application of

WWAZ LICENSE, LLC

)

MM Docket No. 09-115

)

Petition for Rulemaking to Amend DTV

)

RM-11543

Table of Allotments for

)

Fond du Lac, Wisconsin

)

FILED/ACCEPTED

JUL 24 2009

Federal Communications Commission
Office of the Secretary

To: Office of the Secretary

Attention: Chief, Media Bureau

COMMENTS OF WDJT-TV LIMITED PARTNERSHIP

WDJT-TV Limited Partnership ("WDJT"), licensee of Station WDJT-TV, Milwaukee, Wisconsin, hereby submits its comments in opposition to the proposed amendment to the DTV Table of Allotments of WWAZ License, LLC ("WWAZ"). WWAZ seeks to move the transmitter site of Station WWAZ-TV, Fond du Lac, Wisconsin, from the vicinity of Fond du Lac to an antenna farm in the center of Milwaukee, Wisconsin; to operate the station there on Channel 5 with a service area centered on Milwaukee, not Fond du Lac; and to provide service (if at all) to the significant rural areas which would lose analog and also digital service as a result of this proposal only via secondary low power digital replacement translator stations which are subject to displacement at any time. This proposal is clearly contrary to the public interest.

As reflected in the attached Technical Exhibit of du Treil, Lundin & Rackley, Inc., WWAZ-TV operated with analog facilities which served its city of license, Fond du

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Lac, and surrounding rural areas: and is currently authorized to operate with digital facilities that would continue to serve Fond du Lac and surrounding rural areas -- digital facilities which would entail *no loss in service whatever* to any area formerly served by the WWAZ-TV analog signal and which would in fact *increase* the WWAZ-TV service area to the north and west of Fond du Lac, areas which are on the very outskirts of predicted service from distant stations licensed to the distant, larger cities of Madison and Green Bay.

Instead of continuing to serve the people who live in these rural areas surrounding its city of license, Fond du Lac, WWAZ seeks to move its transmitter nearly 40 kilometers to the south, into the heart of metropolitan Milwaukee, and to become, in effect, yet another Milwaukee, Wisconsin television station. For the rural viewers -- some 191,494 of them¹ -- who live to the north and west of Fond du Lac, who are entitled to primary, full-power service from their local Fond du Lac station, and who would be abandoned by WWAZ in its pursuit of metropolitan Milwaukee market status, WWAZ has offered what amounts to a "fig leaf" -- proposed service from one of two low power digital replacement translator stations that are (and will remain) mere secondary facilities subject to displacement at any time.² This paltry offer to the nearly 200,000 rural viewers that WWAZ undertook to serve and is obligated to serve with its station license to Fond du Lac, Wisconsin, is not by any means good enough. These viewers are entitled to *primary service* from their local Fond du Lac full power television station. They do not deserve to be shunted off into a television service backwater consisting only of unreliable

¹ See the attached Technical Exhibit at page 2.

² See *Report and Order* in MB Docket No. 08-253, *Replacement Digital Low Power Television Translator Stations*, FCC 09-36, 2009 FCC Lexis 1993, 47 Comm. Reg. (P&F) 1117 (rel. May 8, 2009) at ¶25 ("*Replacement Translator Report & Order*").

signals from distant cities and a secondary low power local service from a facility that could easily disappear.

As reflected in the attached Technical Exhibit, WWAZ's proposal would create an analog primary service loss area in rural Wisconsin in which 43,824 people reside. It would also create a digital primary service loss area in rural Wisconsin in which 191,494 people reside. A significant number of these people - more than 2,500 of them - would be left with fewer than five *predicted* over-the-air primary digital television services if WWAZ's proposal is adopted, and all of the predicted primary service to all of these nearly 200,000 rural Wisconsin residents would come in the form of unreliable fringe signals from distant Madison and Green Bay television stations. Their one reliable primary *local* television service -- that of their local *Fond du Lac* station -- would be gone forever.

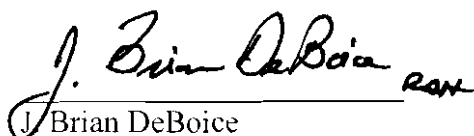
The only reason WWAZ has offered for abandoning these nearly 200,000 rural Fond du Lac area viewers is WWAZ's desire to serve more already well-served viewers in metropolitan Milwaukee -- people who already receive a host of strong local over-the-air Milwaukee station signals -- and WWAZ's desire to serve more Hispanic viewers with the station's current Spanish language programming format. The former amounts simply to a commercial preference to serve the greater numbers who already have ample service at the expense of those who do not and is therefore clearly contrary to the public interest. As to WWAZ's claims regarding its Spanish language format, formats are utterly transient, illusory things. They are here today and gone tomorrow. They cannot therefore form any part of a rational basis for a basic Commission allocation decision.

The Commission did not intend the digital replacement translator service to operate as a form of justification and excuse for the *affirmative creation* of analog (and in this case also substantial digital) primary service loss areas. That secondary service was intended solely to provide service to *existing* loss areas, not to serve as a springboard for the creation of new ones.³ The 200,000 rural Wisconsin residents who would lose their only local full power television service if the WWAZ proposal is adopted -- and who would be given instead, if anything, a mere secondary low power substitute that could disappear at any time -- are not in all probability even aware of this proceeding. That is all the more reason why what the Commission does here must reflect and protect the basic interests of those 200,000 rural Wisconsin viewers. Their interests require -- and thus the public interest also requires -- that WWAZ's proposal be denied.

CONCLUSION

For the foregoing reasons, WWAZ's proposed amendment to the DTV Table of Allotments should be denied.

Respectfully submitted

A handwritten signature in black ink that reads "J. Brian DeBoice" with a stylized flourish at the end.

J. Brian DeBoice
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Counsel to **WDJT-TV LIMITED PARTNERSHIP**

Dated: July 24, 2009

³ See, e.g., *Replacement Translator Report & Order* at ¶14-15 (the replacement translator service is intended as a means to provide service to analog loss areas not served by a station's "*full post-transition digital facilities*") (emphasis supplied).

TECHNICAL EXHIBIT
SUPPORTING COMMENTS OF
WEIGEL BROADCASTING COMPANY
CONCERNING THE
NOTICE OF RULE MAKING TO
MODIFY THE DTV TABLE OF ALLOTMENTS
STATION WWAZ-DT
FOND DU LAC, WISCONSIN

This Technical Exhibit was prepared on behalf of Weigel Broadcasting Company and supports its comments in the Notice of Proposed Rule Making (NPRM) in MM Docket No.09-115 (RM-11543). The NPRM proposes to change the post transition DTV allotment for station WWAZ-DT at Fond du Lac, Wisconsin from channel 44 to channel 5.

According to the FCC database, station WWAZ-TV had its analog (NTSC) operation on channel 68 (BLCT-20041018ABF). The station used a directional antenna (DA) system with a tri-lobe pattern. The major lobes of the antenna pattern were oriented toward 10, 130 and 250 degrees True. The maximum visual effective radiated power (ERP) was 4986 kilowatts (kW). The antenna center of radiation was 490.6 meters above mean sea level (AMSL). The antenna height above average terrain (HAAT) was 195 meters. The site coordinates are 43-26-20, 88-31-29 (NAD-27).

Station WWAZ-DT has a construction permit (CP, BMPCDT-20040209ABG) for operation on channel 44 with an ERP of 700 kW using a directional antenna system. The antenna pattern is a tri-lobe with the major lobes oriented toward 0, 120 and 240 degrees True. The antenna center of radiation is 491 meters AMSL. The antenna HAAT is 195 meters. The site coordinates are 43-26-20, 88-31-29 (NAD-27). These are the same DTV facilities as contained in Appendix B for WWAZ-DT's post transition DTV allotment on channel 44.

The NPRM proposes for station WWAZ-DT to change its post transition DTV allotment from channel 44 to channel 5. It also proposes to relocate the allotment 63.2 kilometers (39.2 miles) southeast of the current site to a site in Milwaukee, Wisconsin. The proposed channel 5 allotment has an ERP of 25 kW and a directional antenna pattern. The antenna pattern is cardioid shaped with the major lobes oriented toward 210 and 330 degrees

True. The center of radiation for the proposed allotment antenna pattern is 553.5 meters AMSL. The proposed allotment antenna HAAT is 354 meters. The proposed allotment site coordinates are 43-05-46, 87-54-15 (NAD-27).

Figure 1 is a map showing the predicted Grade B (64 dBu) contour for the WWAZ-TV analog operation on channel 68. The map shows the predicted 41 dBu noise limited contour for the current WWAZ-DT construction permit and Appendix B allotment on channel 44. The predicted 28 dBu contour is shown for the proposed WWAZ-DT channel 5 allotment. The extent of the contours is based on the normal FCC prediction method using a digitized terrain database at 10 degrees azimuth increment.

As shown on Figure 1 there will be an area losing WWAZ-TV analog service (area where proposed channel 5 28 dBu contour does not encompass WWAZ-TV channel 68 Grade B contour). There is also an area that will lose authorized WWAZ-DT digital service (area where proposed channel 5 28 dBu contour does not encompass WWAZ-DT channel 44 41 dBu contour). The following population summary is based on the 2000 US Census.

Within WWAZ-TV Channel 68 Analog Grade B contour = 1,781,451 people.

Within WWAZ-DT Channel 44 CP/Appendix B 41 dBu contour = 2,202,169 people.

Within Proposed WWAZ-DT Channel 5 28 dBu contour = 4,116,842 people.

Region Losing WWAZ-TV Analog service = 43,824 people.

Region Losing WWAZ-DT Digital service = 191,494 people.

The FCC's database has been used to determine the number of other authorized services available to the WWAZ analog and digital loss areas. Only authorized (license or construction permit) operations were considered. For full service stations, authorized post transition DTV operations are included. Authorized Class A analog and digital stations were considered. Figure 2 is a listing of the stations considered for the other services showing.

Figure 3 is a map showing the WWAZ analog and digital loss areas and the contours for the other services available to the loss areas. The "letters" identify contours for stations listed in Figure 2. The "numbers" indicate the number of other services available to that loss area. There are regions showing 3 other services and 4 other services in the WWAZ loss areas. The following is a summary.

WWAZ Analog loss area with 3 other services = 0 people.

WWAZ Analog loss area with 4 other services = 142 people.

WWAZ Analog loss area with 5 or more other services = 43,682 people.

WWAZ Digital loss area with 3 other services = 36 people.

WWAZ Digital loss area with 4 other services = 2,473 people.

WWAZ Digital loss area with 5 or more other services = 188,985 people.

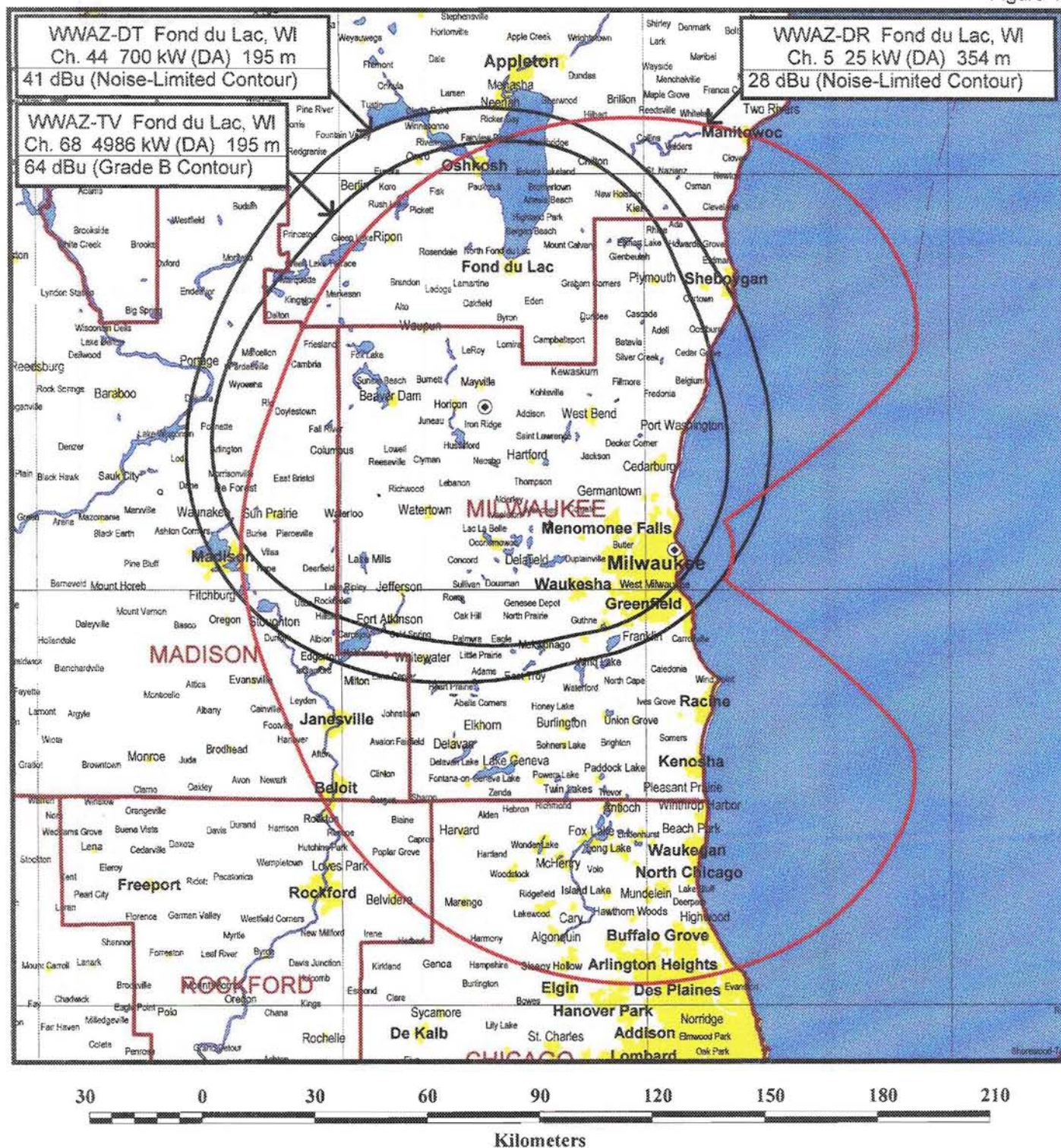
If there are questions concerning this statement, please communicate with the office of the undersigned.

John A. Lundin

du Treil, Lundin & Rackley, Inc.
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July 22, 2009

Figure 1



FCC PREDICTED COVERAGE CONTOURS

STATION WWAZ FOND DU LAC, WI

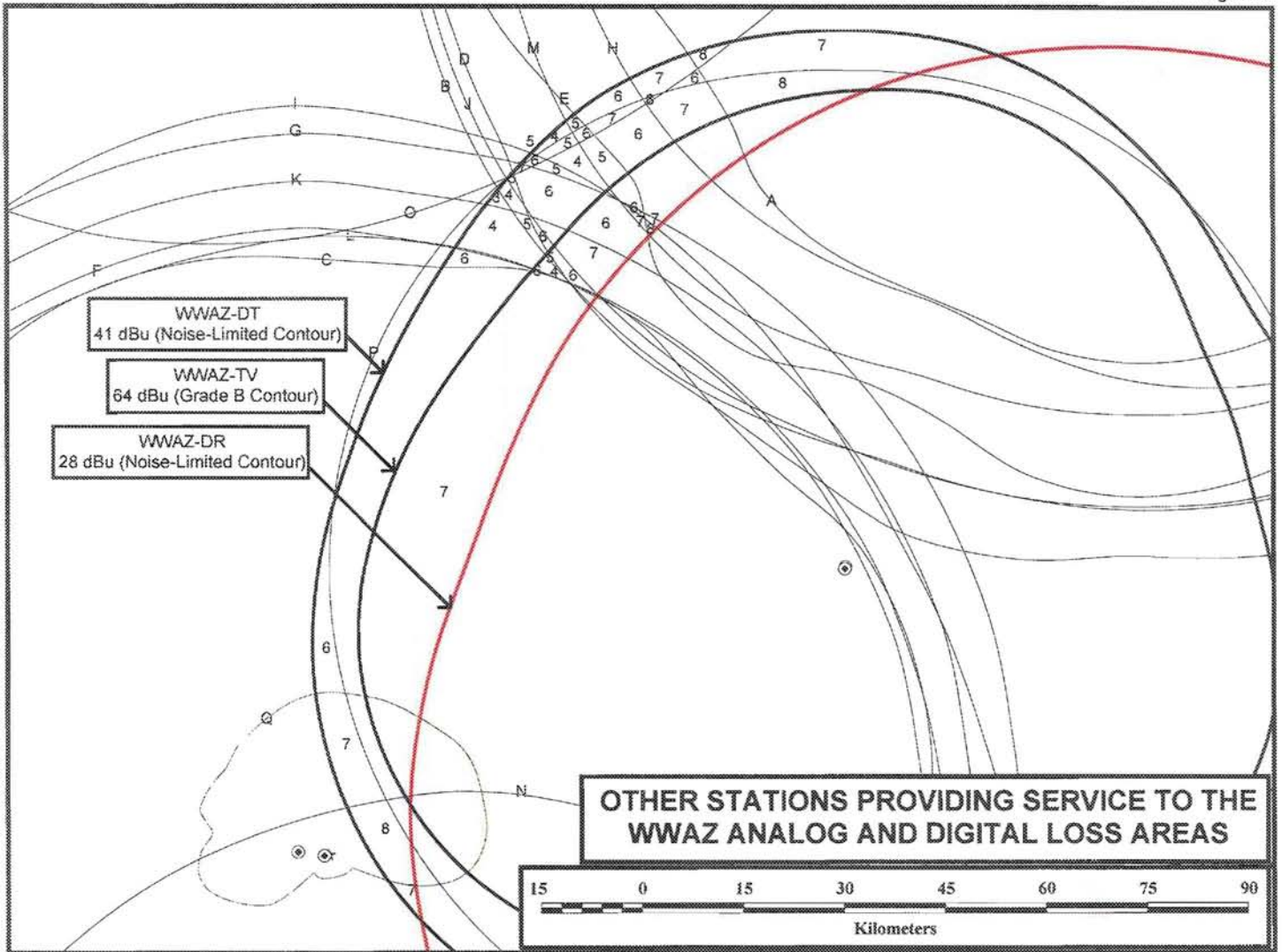
du Treil, Lundin & Rackley, Inc. Sarasota, Florida

Figure 2

Other Stations Providing Service to the WWAZ Digital and Analog Loss Area

ID	Call Sign	City	State	Status
A	WACY-DT	APPLETON	WI	CP MOD
B	WBAY-DT	GREEN BAY	WI	LIC
C	WBUW	JANESVILLE	WI	LIC
D	WFRV-DT	GREEN BAY	WI	LIC
E	WGBA-DT	GREEN BAY	WI	CP MOD
F	WHA-TV	MADISON	WI	CP
G	WISC-DT	MADISON	WI	CP
H	WIWB	SURING	WI	CP MOD
I	WKOW-DT	MADISON	WI	CP
J	WLUK-DT	GREEN BAY	WI	CP
K	WMSN-DT	MADISON	WI	CP
L	WMTV	MADISON	WI	CP
M	WPNE-DT	GREEN BAY	WI	LIC
N	WREX-DT	ROCKFORD	IL	CP MOD
O	WSAW-DT	WAUSAU	WI	CP MOD
P	WWRS-DT	MAYVILLE	WI	LIC
Q	W23BW	MADISON	WI	LIC

Figure 3



CERTIFICATE OF SERVICE

I, Brenda Chapman, hereby certify that on this 24th day of July, 2009, a copy of the foregoing "Comments of WDJT-TV Limited Partnership" was delivered via first class, U.S. mail, postage prepaid to the following:

Kathleen Victory, Esq.
Fletcher, Heald & Hildreth, PLC
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Arlington, VA 22209


Brenda Chapman